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In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in its Chico District by \$6,380,400 or 49.1% in July 2008, \$1,651,100 or 8.5% in July 2009, and by \$1,651,100 or 7.9% in July 2010; in its East Los Angeles District by \$7,193,200 or 36.5% in July 2008, \$2,034,800 or 7.6% in July 2009, and by \$2,034,800 or 7.0% in July 2010; in its Livermore District by \$3,960,900 or 31.2% in July 2008, \$942,200 or 5.6% in July 2009, and by \$942,200 or 5.4% in July 2010; in its Los Altos-Suburban District by \$5,172,500 or 30.5% in July 2008, \$1,189,100 or 5.4% in July 2009, and by \$1,189,100 or 5.1% in July 2010; in its Mid-Peninsula District by \$5,435,100 or 23.7% in July 2008, \$1,634,200 or 5.8% in July 2009, and by \$1,634,200 or 5.5% in July 2010; in its Salinas District by \$5,119,700 or 29.8% in July 2008, \$3,636,900 or 16.3% in July 2009, and by \$2,271,300 or 8.7% in July 2010; in its Stockton District by \$7,474,600 or 29.0% in July 2008, \$1,422,400 or 4.3% in July 2009, and by \$1,422,400 or 4.1% in July 2010; and in its Visalia District by \$3,651,907 or 28.4% in July 2008, \$3,546,440 or 21.3% in July 2009, and by \$3,620,482 or 17.6% in July 2010.

Application 07-07-001
(Filed July 3, 2007)

OPENING BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in its Chico District by \$6,380,400 or 49.1% in July 2008, \$1,651,100 or 8.5% in July 2009, and by \$1,651,100 or 7.9% in July 2010; in its East Los Angeles District by \$7,193,200 or 36.5% in July 2008, \$2,034,800 or 7.6% in July 2009, and by \$2,034,800 or 7.0% in July 2010; in its Livermore District by \$3,960,900 or 31.2% in July 2008, \$942,200 or 5.6% in July 2009, and by \$942,200 or 5.4% in July 2010; in its Los Altos-Suburban District by \$5,172,500 or 30.5% in July 2008, \$1,189,100 or 5.4% in July 2009, and by \$1,189,100 or 5.1% in July 2010; in its Mid-Peninsula District by \$5,435,100 or 23.7% in July 2008, \$1,634,200 or 5.8% in July 2009, and by \$1,634,200 or 5.5% in July 2010; in its Salinas District by \$5,119,700 or 29.8% in July 2008, \$3,636,900 or 16.3% in July 2009, and by \$2,271,300 or 8.7% in July 2010; in its Stockton District by \$7,474,600 or 29.0% in July 2008, \$1,422,400 or 4.3% in July 2009, and by \$1,422,400 or 4.1% in July 2010; and in its Visalia District by \$3,651,907 or 28.4% in July 2008, \$3,546,440 or 21.3% in July 2009, and by \$3,620,482 or 17.6% in July 2010.

Application 07-07-001
(Filed July 3, 2007)

OPENING BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES

I. INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), and the schedule set by Administrative Law Judge ("ALJ") Thomas, the Division of Ratepayer Advocates ("DRA") files this Opening Brief in the General Rate Case ("GRC") of California Water Services Company ("Cal Water").

After extensive settlement discussions, DRA and Cal Water reached agreement on many of the issues in this proceeding. DRA and Cal Water will file a Proposed Settlement Agreement on March 12, 2008 that resolves most of the issues in this GRC application with the exception of: 1) Special Request – Per-Lot Special Facilities Fees; and 2) Health Care Escalation Proposal for the Escalation Years. This opening brief addresses these remaining contested issues.¹

II. AUTHORITY

All charges demanded or received by any public utility must be “just and reasonable.” (Public Utilities Code Section 451.) Existing rates are presumed to be reasonable and lawful and a utility seeking to increase those rates has “...the burden of showing by clear and convincing evidence that it is entitled to such increase.” (D.00-02-046.) The standard applicable to the approval of rate increases is “clear and convincing” evidence:

Clear and convincing evidence must be clear, explicit, and unequivocal. It should be so clear as to leave no substantial doubt, or sufficiently strong to demand the unhesitating assent of every reasonable mind. (Id.)

DRA reviewed Cal Water’s application and conducted discovery during its analysis and review for this proceeding. In several areas, Cal Water’s showing is inadequate. The inadequacies of Cal Water’s showing are discussed in detail below.

III. UNSETTLED ISSUES BETWEEN DRA AND CALIFORNIA WATER SERVICE COMPANY

A. Special Request – Per-lot Special Facilities Fees

1. Introduction

Cal Water proposes changes to the water supply special facilities fees in the Chico, Salinas and Visalia Districts. Cal Water requests per-lot special facilities fees for the Chico, Salinas, and Visalia Districts to be set at \$1,000, \$1,200, and

¹ Silence on any issue should not be interpreted as assent.

\$1,100, respectively. (Ex. 44, p. 56.) The intent of per-lot fees is to “ensure that existing customers do not subsidize growth while ensuring an orderly development process.” (Id.) Cal Water also requests a unitized special facilities fee for transmission mains in the Visalia District of \$1,100. (Id.) These water supply special facilities fees are implemented in conjunction with the existing methodology based on Rules 15 and 16. (Ex. 47, 48.)

DRA finds that the Cal Water’s current method for developing per-lot fees and recovering infrastructure charges under Rules 15 and 16 does not place new and existing customers on an equal footing with regards to investment in facilities to provide service. (Ex. 202, p. 12-3.)

Therefore, DRA proposes a new method of developing per-lot fees that requires new connections to pay the difference between the historic and current costs up front in a per-lot special facilities fee for all connections two inches and under in size in the eight districts participating in this GRC.² (Id.)

2. The Existing Method Under Rules 15 and 16 does not Adequately Recover the Costs of New Connections

Currently, Cal Water collects facilities costs under the framework of its Rules 15 and 16. Developers of multiple lots and individual main extension requests are charged under Rule 15 and individual service connections off existing facilities are dealt with under Rule 16. (Cal Water/Smegal, 9 RT 290:3-11.) In some districts, Cal Water collects per-lot water supply special facilities fees. (Ex. 1, tab 17, p. 39; Ex. 47; Ex. 48.)

In the five districts without a per-lot water supply special facilities fee (East Los Angeles, Livermore, Los Altos-Suburban, Mid-Peninsula, and Stockton) Cal Water charges facilities costs on an individual basis under its Rule 15. (Id.) For

² For new connections above two inches in size, DRA agrees that Cal Water should negotiate a special connection fee to recover all facility costs associated with providing service. (Id.)

all of the districts in this GRC, individual service connections off existing facilities generally do not pay anything under Rule 16. (Cal Water/Smegal, 9 RT 294:14-23.)

Although Cal Water collects the actual cost of new facilities from multiple lot developments and individual main extension requests under the current Rule 15 framework, it does not collect any fees or charges from multiple lot developments, individual main extension requests or individual service connections off existing facilities for the cost of existing facilities.

3. DRA's Proposed Per-Lot Special Facilities Fees

In order for new customers to be placed on an equal footing with existing customers, new customers require the same capacity with the same cost basis. (Ex. 202, 12-4.) Therefore, new customers should pay the difference between the costs up front in a per-lot special facilities fee. (Id.)

As discussed in the previous section, new service connections do not provide sufficient funds to cover the cost of facilities needed to provide the new service connections with the same capacity as existing customers. (Id.) In order to give existing connections and new connections an equal cost basis, funding needs to be sufficient to provide identical rate base for new and existing customers. (Id.) Therefore, new connections must pay the difference between the cost of equal new facilities and the embedded investment of existing customers. (Id.)

DRA developed its recommended per-lot special connection fees for the eight districts by calculating the difference between: 1) the cost of equal facilities for a new customer, and 2) the average embedded cost of facilities for an existing customer. (Id.)

The costs of providing a new customer with the same capacity as existing customers (“costs of new facilities”) is determined by calculating the costs of the five different types of facilities needed to deliver clean and safe water to a utility

customer: 1) distribution and meters, 2) storage, 3) wells, 4) treatment, and 5) mains. (Id. at 12-4 to 12-8.) The costs of new facilities ranged from \$6,665 in the Stockton District to \$12,694 in the Salinas District, as displayed in Table 1 below.³ (Ex. 214, p. 1.)

DRA determined the average embedded costs of facilities for an existing customer in each district by determining the per-customer costs of existing facilities for (1) distribution and meter; (2) storage; (3) wells; (4) treatment; and (5) mains.⁴ (Ex. 202, p. 12-9.) The per-customer costs were offset by the per-customer costs of Advances and Contributions.⁵ The average embedded cost of facilities for an existing customer ranged from \$340 in the Visalia District to \$1,188 in the Salinas District, as displayed in Table 1 below. (Ex. 214, p. 1.)

Table 1

New Customer Additional Asset Cost								
	Chico	East LA	Livermore	Los Altos	Mid-Peninsula	Salinas	Stockton	Visalia
Asset Cost per New Service	\$ 7,153	\$ 8,717	\$12,242	\$10,774	\$ 10,169	\$12,694	\$6,665	\$ 6,868
Cost of Old Assets	\$ 689	\$ 827	\$971	\$ 1,063	\$ 1,084	\$1,188	\$1,041	\$ 340
New Customer Additional Asset Cost	\$ 6,464	\$ 7,891	\$11,271	\$ 9,711	\$ 9,085	\$11,506	\$5,624	\$ 6,528

(Based on Revised Data in Ex. 214, Table 12-B, Table 12-I.)

It is DRA's position that new connections may either contribute money or facilities to Cal Water to fulfill DRA's lot fee payment. Also, additional funding would be required if the new connection requires over 100 feet of main to complete their connection.

³ DRA revised its figures to remove the costs of three unusually costly main replacement projects.

⁴ DRA determined the costs based on data as of December 31, 2006.

⁵ DRA determined the costs based on data as of December 31, 2006.

4. DRA's Proposed Per-Lot Special Connection Fee should be Treated as Contributions Rather than Advances

DRA recommends that its proposed per-lot special connection fees be treated as contributions in aid of construction (“contributions”) rather than advances.⁶ (Ex. 202, pp. 12-4, 12-10 to 12-11.) Such treatment will ensure that new and existing customers are placed on an equal footing with an identical cost basis and assigned capacity. (Id.)

Treating the per-lot fees as contributions is beneficial to ratepayers because the money does not need to be repaid. If the per-lot fees are treated as advances, then the balance must be repaid over a term of years, with both new and existing customers responsible for repayment of the advance. (*See* Ex. 213, p. 4; Cal Water/Smegal, 9 RT 305:6-306:17.) Therefore, if any portion of the per-lot special connection fees are treated as advances, then existing customers will be subsidizing new customers. (Id.)

Exhibit 213 demonstrates the impact on ratepayers of contributions versus advances or shareholder investment. (Exhibit 213.) This exhibit clearly demonstrates that contributions are not paid for by existing customers while the majority of advances are paid for by existing customers. (Id. at 4)

⁶ A **contribution** is “... money (or other consideration) received by a utility to install, improve, replace, or expand facilities other than those normally provided by the utility. The use of nonrefundable advances [or contribution] to cover construction costs associated with the requested facilities ensures that these additional costs are paid by the customer or contributor requesting the facilities rather than recovered through rates paid by ratepayers in general. Since the cost of property paid for by nonrefundable advances is not included in [the utility’s] plant in service account, this cost is automatically not included in rate base.”

An **advance** is “... money (or other consideration) received by a utility for the construction of utility facilities. These advances are partially or wholly refundable over a period of . . . years, depending on the extent to which the revenues generated through the constructed facilities cover the associated construction costs. After the . . . period, the unrefunded portion of the advance becomes the property of [the utility] and is accounted for in the same way as a nonrefundable advance.” (Resource, p. 103 (2d. ed. 1992.))

5. Commission Precedent Supports Per-Lot Fees

The Commission has increasingly authorized the collection of per-lot fees by water utilities. Several recent Commission decisions have authorized deviations from General Order (“GO”) 103, Rule 15, allowing for the collection of per-lot fees to finance needed facilities for new customers.

In D.90-02-020, the Commission authorized Southern California Water Company to charge a connection fee in its Desert District on a trial basis. (D.09-02-020, pp. 13, 36.) Although a major deviation from GO 103, the Commission considered connection fees “an appropriate source of revenue to help utilities to finance the additional plant needed to serve new customers.” (Id. at 14.)

Additionally, D.91-04-068 authorized “Class C and D Water Utilities, and Class A and B utility districts or subsidiaries serving 2,000 or fewer connections, to accept from individual customers’ amounts in **contributions** as facilities fees representing a proportion of the cost of additional or replacements facilities required because of the new connections.” (D.91-04-068, p. 1, emphasis added.) D.91.04-068 also authorized larger water utilities to request a connection fee facilities fee, requiring the larger utilities to justify the request in their GRCs. (Id. at 10.)

In D.03-09-021, the Commission authorized Cal Water to collect water supply special facilities fees for its Dixon, King City, Marysville, Salinas, and Willows Districts. (D.03-09-021, Attachment B, pp. 8-9.) D.03-09-021 allowed a deviation from GO 103, authorizing Cal Water to charge a fee on a per lot basis rather than on a sub-division or project development basis, as otherwise allowed in its Rule 15, Main Extensions. (D.05-12-020, p. 16.)

Lastly, D.05-12-020 found that Rule 15, Main Extensions, allowed Apple Valley Ranchos Water Company to charge developers or other customers a fee to reimburse the cost of extending service from the existing system. (D.05-12-020,

p. 47.) The fees could be either contributions or advance depending on the circumstances. (Id.)

B. The Commission Should Reject Cal Water's Health Care Escalation Proposal

The Commission should reject Cal Water's proposal to use an escalation factor for health care expenses that is higher than the factor mandated by the Commission in D.07-05-062, the Rate Case Plan for Class A Water Utilities ("Revised Rate Case Plan"). The escalation formula at issue is used to establish the health care expense levels for the two escalation years in a GRC cycle. Employee health care costs are considered a labor related expense.

Cal Water proposes that the Commission adopt an escalation formula based on the Employment Cost Index for Health Insurance (ECIHI), which is used for energy utilities. (Ex. 1, tab 17, p. 55.) DRA recommends the use of the most recent labor inflation factor as published by DRA for health care expenses, in accordance with D.07-05-062. (Ex. 209, pp. 1-4 to 1-6.)

Although there are no limitations on establishing the test year forecast, D.07-05-062, adopted in May 2007, indicates specific methods that water utilities must use to prepare escalation year requests. (D.07-05-062, Appendix A, p. A19.) D.07-05-062 mandates that class A water utilities "[e]stimate escalation year labor expenses by the most recent labor inflation factors as published by the DRA." (Id.) D.07-05-062 clearly establishes the methodology for estimating escalation year labor expenses.

Cal Water argues that DRA's labor escalation factors do not reflect rising health care costs and that the higher ECIHI should be used. (Ex. 1, tab 17, p. 55.) However, as acknowledged by its witness, Cal Water has advocated for a similar change in the methodology for escalating health care costs in both D.07-05-062 and the previous rate case plan proceeding. (Cal Water/Smegal, 9 RT 263:18-264:6.) Despite Cal Water and other water utilities raising the issue in D.07-05-062 and the previous rate case plan proceeding, the Commission found that the

existing methodology, which utilized DRA's labor inflation factor, was the appropriate method to continue using in class A water utility GRCs.

The Commission conclusively decided the appropriate health care expense escalation factor in D.07-05-062, determining that DRA's most recent labor inflation factor was the appropriate factor for class A water utilities to use in preparing escalation year requests. Therefore, the Commission should reject Cal Water's proposal for the use of a higher escalation factor and adopt DRA's recommendation for health care escalation factor. If Cal Water continues to find the existing escalation factor inadequate, it should raise the issue in the next rate case plan proceeding or in another industry wide rulemaking, not in an isolated GRC proceeding.

IV. UNSETTLED ISSUES BETWEEN ART MANGOLD AND CALIFORNIA WATER SERVICE COMPANY IN THE MID-PENINSULA DISTRICT

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V. UNSETTLED ISSUES BETWEEN JEFF YOUNG AND CALIFORNIA WATER SERVICES COMPANY

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VI. CONCLUSION

For all the foregoing reasons, and for the reasons set forth in its testimony, DRA respectfully requests that the Commission adopt its recommendations with regards to per-lot special facilities fee and health care escalation factor.

Respectfully submitted,

/s/ MARCELO POIRIER

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March 7, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **OPENING BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES** in **A.07-07-001** by using the following service:

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/s/ ALBERT HILL
Albert Hill

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